

Appln No. 10/080,818
Amdt date November 2, 2006
Reply to Office action of May 2, 2006

REMARKS/ARGUMENTS

Pending Claims:

Claims 1-3, 5-12, and 14-17 are pending and are amended herein. Claims 4, 13 and 18-20 are canceled. Independent claims 1, 9 and 17 are amended to recite “weld-on hinges” and include the limitation that the cylindrical female barrel portion is welded to a first part to be hinged together and that the first and second male barrel portions are welded to a second part to be hinged together. Claims 6 and 15 are amended to recite “solid bar stock” and claims 7 and 16 are amended to recite “solid cylindrical stock”.

Rejection of the Claims under 35 U.S.C. 103(a):

At Items 2-6, the Examiner rejects claims 1, 5, 8, 9, 12, 14, 17, 19 and 20 under 35 U.S.C. 103(a) as being unpatentable over Applicant’s Admitted Prior Art (APA) in view of U.S. Patent No. 5,561,886 to Flamme in view of U.S. Patent No. 5,774,938 to Kent.

In response to the comments made by Applicant in the RCE arguing against the combination of APA with Flamme, the Examiner states that one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. The Examiner states that the method of attachment of Flamme does not affect its combination with APA since APA teaches the claimed method of attachment, welding, and Flamme is cited for the teaching of a pin extension, which the Examiner states aids in assembly by easily lining up with the borehole and that this is true regardless of how the hinge is attached to the surrounding structure.

Applicant has carefully considered the Examiner’s position including the cited cases, and respectfully believes that one having ordinary skill in the art would not find a motivation to combine the references. The law is clear that the prior art suggestions to combine must be explication or implicit, and that the motivation must be clear and particular. In re Dembiczak, 175 F. 3d 994, 50 USPQ2d 1614 (Fed. Cir. 1999), a Federal Circuit panel emphasized that in order to reject a claim on the grounds of obviousness in view of a combination of prior art

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references, a showing of a suggestion, teaching or motivation must be clear and particular (50 USPQ2d at 1617). In Dembiczak, the claimed invention was an orange plastic bag decorated with a jack-o'-lantern face. The patent office references were conventions orange trash bags and children's art with jack-o'-lantern faces on the outside of paper sacks. The PTO did not provide actual evidence supporting a suggestion to combine.

In the present application, the Examiner states that the motivation to combine arises out of the pin extension aiding in assembly by easily lining up with the borehole. However, the so-called easy assembly feature has nothing to do with the claimed invention where the female barrel portion and male barrel portions are directly welded to the items to be hinged together, with the terminal ends of the pins of the male barrel portions being spaced apart in the female barrel portion with the grease fitting, so that the hinge can be lubricated. Indeed, the prior art barrel hinge designs are intended for super heavy duty applications, such as for hinging the heavy doors of ocean shipping containers and the like. The short tabs 13 and 14, separated by a great distance of the cited Flamme reference, would not suggest to one of ordinary skill in the art in the area of barrel hinges the replace the two end tubes and the central bar with two male barrel portions with pin extension since such as design would lack strength. Accordingly, based on these facts, one having ordinary skill in the art of barrel hinges would not find a motivation to combine APA and Flamme.

Applicant respectfully submits that the Examiner has engaged in hindsight reconstruction of the facts by piecing together cited references that do not provide any motivation for the claimed invention. In doing so, the Examiner has raised some possible motivations that have nothing to do with the claimed invention. Nonetheless, these motivations would not have reasonably lead one of ordinary skill in the art to invent the invention for the reasons noted above.

Lastly, if arguendo, the Examiner has raised a proper *prima facie* obviousness rejection under 35 U.S.C. 103(a), which Applicant does not believe to be the case, there is at least one secondary factor that demonstrates lack of obviousness. Barrel hinges and grease fittings are quite old and are widely used. Furthermore, the problems associated with prior art barrel hinges

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are known and are not a recent development, but have long existed. Applicant's invention does not involve any new materials or assembly technology that recent came into existence, but instead uses basic components such as metal bars and tubing and grease fitting. Anyone could have come up with Applicant's invention decades and decades ago, but they did not. This accordingly provides secondary evidence of lack of obviousness of the claimed invention, and reversal of this ground of rejection is accordingly requested.

For the above noted reasons, Applicant respectfully submits that all claims should be allowed.

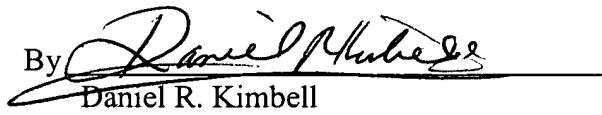
Turning to the rejection of claims 2 and 10 under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art (APA) in view of Flamme and Kent in further view of U.S. Patent no. 132,147 to Dodge. The Examiner states that Dodge clearly shows bevels. Claims 2 and 10 have been amended to more precisely state that "the two ends of the female barrel portion are outwardly beveled where the outside surface meets the two ends, and wherein the main body portions of the male barrel portions are outwardly beveled where the pin extensions extend therefrom to form a groove in interface regions where the bevels at the two ends of the female barrel portion are adjacent to bevels where the pin extensions extend from the main body portions." In Dodge, no such groove is formed between the so-called bevels of any of the embodiments. Accordingly, claims 2 and 10 should be allowed.

Lastly, with respect to the rejection of claim 6, 7, 15 and 16, the Examiner continues to reject Applicant's position that Simpson does not teach male portions made from bar or tubing stock, and states that "Applicant's argument fails to address the pipe of Simpson is not a bar". Applicant does not understand this statement, but in any case, claims 6 and 15 are amended to recite "solid bar stock" and claims 7 and 16 are amended to recite "solid cylindrical stock". In Kent, hollow tubing is used so this ground of rejecting is also overcome.

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If the Examiner has any further suggestions, a telephone call to the undersigned would be appreciated.

Respectfully submitted,
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